IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5084 OF 2004

Rajesh Prabhudas Thakkar & Anr ...Applicants

Versus

The State of Maharashtra & Anr ...Respondents

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Ms. Seema Gupta i/b A.M. Sarogi, Advocate for Applicants.

Mr. Umesh Mankapure i/b R.V. More, Advocate for Respondent No.2.

Mr. Rajesh More, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 26TH AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the applicants i.e. original accused, the learned advocate for the respondent No.2 i.e. original complainant and the learned A.P.P. for the State.

2. The applicants have prayed for quashing of Complaint No.260 of 2002 which is pending in the Court of learned Judicial Magistrate, 1st Grade Court, at Atpadi, Dist. Sangli. In the said case, process has been issued against the applicants under Section 138 of Negotiable Instruments Act. The learned advocate for the applicants submitted that

the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the applicants is set aside, the proceedings in respect of the applicants would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. The learned advocate for the applicants states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today. The learned advocate for the respondent No.2 i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Application is disposed of.

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